



DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING
3030 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-3030

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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL
DIRECTOR OF ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DEFENSE LABORATORIES

SUBJECT: Interim Guidance on the use of Certain Authorities Granted Under:
10 U.S.C. §2194, "Education Partnerships",
15 U.S.C. §3710(i), "Utilization of Federal technology" aka "Stevenson- Wydler
Act), and
15 U.S.C. §3710a, "Cooperative Research and Development Agreements"

The attached Interim Guidance is effective immediately and establishes Department of
Defense policy and promotes consistent implementation within the Department.

Section 253 of the National Defense Authorization Act for Fiscal Year 2001 (P.L. 106-398), amends 10 U.S.C. §2194, "Education Partnerships" by expanding the authority to enter into such partnerships to all DoD operational commands. In addition, it clarifies the authority to transfer equipment to educational institutions under Education Partnership Agreements (EPA). This amendment represents an enormous opportunity by permitting substantial elements of the Department to become involved in facilitating and nurturing the study of science, mathematics and engineering (SME) and the conduct of research throughout our nation. I applaud current and past efforts to enhance the study and teaching of SME and encourage continuation and expansion of those efforts. All components authorized to do so are urged to explore opportunities that may exist for them to participate in such efforts. Equipment transfers under the subject authorities are also addressed.

The upcoming DoD SME Conference scheduled for August 7-9, 2001 in San Diego, CA will address expansion of SME legal authority, highlight ongoing programs, and will provide a model for components to start or expand SME involvement. Details of the conference and ongoing SME efforts are available at the EduGate website:

<http://www.acq.osd.mil/ddre/edugate/>

Delores M. Etter
Deputy Director

Attachment:
As stated



INTERIM GUIDANCE ON THE USE OF AUTHORITY GRANTED UNDER:

- 10 U.S.C. §2194 “Education Partnerships”,
- 15 U.S.C. §3710(i) “Utilization of Federal technology” aka “Stevenson- Wydler Act”, and
- 15 U.S.C. §3710a “Cooperative Research and Development Agreements”

I. General

A. Purpose

This document provides direction and guidance relating to the use of certain authorities described in 10 U.S.C. §2194, titled “Education Partnerships”, 15 U.S.C. §3710(i), “Utilization of Federal technology” aka “Stevenson- Wydler Act”, and 15 U.S.C. §3710a, titled “Cooperative Research and Development Agreements”, each as amended. This guidance is generally intended to:

1. Broadly define DOD policy under these authorities.
2. Authorize and encourage DOD components to make use of these enabling authorities, including but not necessarily limited to:
 - a. The authority to actively encourage, enhance and engage in efforts that promote the study in scientific disciplines in many ways and at all levels of education pursuant to 10 U.S.C. §2194.
 - b. The authority to loan, lease or donate research equipment pursuant to 15 U.S.C. §3710(i);
 - c. The authority to provide equipment under a Cooperative Research and Development Agreement pursuant to 15 U.S.C. §3710a.
3. Promote greater consistency among the DOD components in the understanding, utilization and implementation of these authorities.

B. Background

Certain authorities have been put in place that authorize and encourage Defense Components to engage in a wide range of activities that are generally intended to promote and improve the study of science, mathematics and engineering (SME) and/or facilitate the conduct of scientific and technical research.

C. Applicability

This Guidance applies to the Office of the Secretary of Defense, the Military Departments, the Combatant Commands, the Defense Agencies, the DOD Field Activities and other organizational entities within the Department of Defense (hereafter collectively referred to as the “DOD Components” or simply “Components”).

D. Policy

Consistent with applicable laws, it is the policy of the DOD to encourage all Components authorized to do so to establish, stimulate, support and/or conduct SME educational programs at any level of education and/or to

stimulate the conduct of scientific research and development to the degree and to the extent that they have the authority, technical capability and resources to do so without negatively impacting the execution of their primary mission.

Component Directors are instructed to broadly interpret these authorities in order to maximize their opportunities to become involved in authorized efforts that promote the improvement of science, mathematics and engineering education and/or efforts that expand research opportunities.

Component Directors shall use the procedures set forth in this guidance for transferring equipment by use of a loan, lease, or donation, to educational institutions under the authorities described herein.

II. Authorized Activities

A. Education Partnership Agreements (EPA)

1. DOD Covered Organizations are authorized to enter into one or more Education Partnership Agreements with educational institutions in the United States for the purpose of encouraging and enhancing the study in scientific disciplines at all levels of education in accordance with 10 U.S.C. §2194. DoD "Covered Organizations" are **any** laboratory, product center, test center, depot, training or educational organization, or **operational command** under the Components' jurisdiction. DOD Components shall notify Commanders/Directors of all Covered Organizations under the Components' jurisdiction that the Commanders/Directors are authorized and encouraged to enter into EPAs within 30 days of the issuance of this Interim Guidance.

Under an Education Partnership Agreement, DOD Covered Organizations may provide assistance to educational institutions by:

- (1) loaning equipment to the institution;
- (2) transferring to the institution any computer equipment or other scientific equipment, that is:
 - A) commonly used by educational institutions,
 - B) surplus to the needs of the command; and,
 - C) determined to be appropriate for the support of such agreement;
- (3) making personnel available to teach science courses or to assist in the development of science courses and materials for the institution;
- (4) involving faculty and students of the institution in defense research projects;
- (5) cooperating with the institution in developing a program under which students may be given academic credit for work on defense research projects; and
- (6) providing academic and career advice and assistance to students of the institution.

Commanders/Directors of Covered Organizations are authorized and encouraged to redelegate the EPA authority within their command in order to achieve the widest practical DoD involvement in SME activities. DOD Components are encouraged to survey the potential to execute EPAs and shall encourage their organizations to actively pursue involvement in activities authorized by 10 U.S.C. §2194. In accordance with 10 U.S.C. §2194, all activities carried out under that authority shall be conducted under an Education Partnership Agreement.

2. The Education Partnership Agreement.

All activities carried out under 10 U.S.C. §2194 will be formalized using an Education Partnership Agreement (EPA). The EPA need not be an extensive document but should include these minimal characteristics. The document shall:

- a. be identified as an "Education Partnership Agreement";
- b. identify the organizations/parties involved and include Point of Contact information;
- c. state the term of the agreement;
- d. cite the authority(ies) under which the agreement and its terms are authorized;
- e. state the purpose of the agreement describing the nature of the services/activities that are anticipated and the expected benefit;
- f. include any terms and conditions that may be necessary in order to assign or disavow responsibility for maintenance, limitations of liability, suitability for use, and any other warranties or claims that may be appropriate;
- g. be signed by authorized representatives of each party of the EPA. For the Department of Defense, the signature authority and ultimate responsibility for the EPA rests with the Commander/Director of the Covered Organization. The Commander/Director may choose to re-delegate signature authority to an appropriate level depending on the nature or provisions of the EPA.

A sample EPA focused toward equipment transfer is attached for reference.

B. Stevenson-Wydler Technology Innovation Act

A Laboratory Director (or agency head) is authorized to loan, lease or donate research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities in accordance with 15 USC §3710(i).

C. Cooperative Research and Development Agreements

A Laboratory Director may provide personnel, services, facilities, equipment, intellectual property or other resources to non-Federal parties with or without reimbursement in accordance with 15 U.S.C. §3710a.

III. Property Transfer Procedures

A. Loaning or Donating Research Equipment

1. The Commander/Director of the Covered Organization is responsible for approving Loans and Donations of research equipment and may designate other officials within their organization to approve such activities.
2. A Commander/Director of the Covered Organization may Loan or Donate equipment to authorized recipients in accordance with the governing authorities. These are:
 - a. Pursuant to 10 U.S.C. §2194, a Commander/Director of the Covered Organization may (i) Loan research equipment to an educational institution; or (ii) Donate computer equipment or other scientific equipment that is commonly used by educational institutions, that the Director determines to be surplus (see definitions) to the needs of the organization, and that the Commander/Director determines to be appropriate to support an EPA (i.e. such transfer will encourage the study of science, mathematics and engineering education).
 - b. Pursuant to 15 U.S.C. §3710(i), a Laboratory Director (or agency head) may loan, lease, or donate research equipment that is excess to the needs of the laboratory, agency, or department to an authorized recipient for the conduct of technical and scientific education and research activities.
 - c. Pursuant to 15 U.S.C. §3710a, a Laboratory Director may provide research equipment to a collaborating party under a Cooperative Research and Development Agreement for the conduct of specified research and development efforts that are consistent with the missions of the laboratory.
3. All equipment transfers must be documented in writing with sufficient detail to identify the property being transferred, the purpose, terms and conditions of the transfer, and must be signed by representatives of each party.
4. The agreement must have a reference number or other unique identifier assigned by the Component.
5. The terms of the property transfer can be set forth within either of the authorized agreements (Cooperative Research and Development Agreement or Education Partnership Agreement), an attachment thereto, or in a separate referenced agreement. The written agreements should include terms that sufficiently identify and protect the DOD's interests.
6. Transfers of equipment pursuant to a Cooperative Research and Development Agreement may be for a fee or free of charge. Loans, leases, and donations pursuant to 15 U.S.C. §3710(i) and loans and donations pursuant to 10 U.S.C. §2194 may be free of charge. However,

the recipient may be required to pay all costs associated with packing and transportation.

7. All transfers of Research Equipment must comply with Export Control laws, rules and regulations.
8. All equipment transfers must comply with DOD demilitarization and environmental requirements.
9. Computer Loans and Leases shall be assessed for the need to comply with, and computer Donations must comply with Assistant Secretary of Defense Memorandum, "Disposition of Unclassified DOD Computer Hard Drives," dated June 4, 2001.

B. Donating Research Equipment – Additional requirements

While the disposal procedures of the Federal Property and Administrative Services Act do not apply to EPAs, DOD components are responsible for transferring appropriate types of equipment subject to the pertinent export, demilitarization and environmental requirements. Good stewardship demands that certain precautions be taken to reduce the potential for inadvertent transfer of equipment that is still useful to the Department. The guidance within this document is intended to expedite the transfer process and maintain the stewardship role.

1. Research Equipment targeted for donation must be screened for other DOD usage prior to donation using either of the following mechanisms.
 - a) The Defense Information Systems Agency (DISA) will establish and maintain a common electronic interface to facilitate rapid screening within DOD.
 - b) Alternative means of screening are permitted so long as the intent of the process is maintained. This will ensure that other DOD activities have an opportunity to identify needs prior to donation to an educational or nonprofit organization. Acceptable screening efforts may take the form of telephone calls, fax, or electronic communications (e-mail or Website) within and between potentially interested DOD components.
2. Equipment donations under these authorities shall be identified to DISA in a manner and timeframe to be prescribed by DISA.
3. The donating activity must keep a completed and signed copy of the donation agreement for one year after the research equipment has been donated.

C. Reporting Requirements

All programs carried out using the authority of 10 U.S.C. §2194 and 15 U.S.C. §3710(i) and all equipment transfers under 15 U.S.C. §3710a shall be reported electronically via the interactive EduGate Website:

<http://www.acq.osd.mil/ddre/edugate/>.

The managers of all programs intended to improve SME education are encouraged to use the EduGate Website as a resource for locating managers of similar programs and are encouraged to open channels of communication with those managers. Directors and program managers are encouraged to consult the database to identify programs that they would like to either participate in or establish.

Programs involving the donation of equipment will be described generally in the EduGate database. Reports of the actual equipment donations will be carried out in accordance with guidance to be developed and disseminated by DISA within 30 days of the issuance of this guidance.

IV. Terms and Definitions

Refer to the authorizing legislation for precise usage of terms within the specific authority.

- A. Defense Laboratory – For purposes of 10 U.S.C. §2194 is ***any** laboratory, product center, test center, depot, training or educational organization, or operational command* under the jurisdiction of the Department of Defense. [emphasis added]
- B. Defense Laboratory - For Purposes of 15 U.S.C. §3710(i) and 15 U.S.C. §3710a is any research, development or engineering facility that is DOD owned and operated or that is DOD owned and contractor operated.
- C. Loans and Leases are temporary transfers of property.
- D. Donations are transfers of ownership (title) of property.
- E. Research Equipment – Within this guidance, the terms property, research equipment, laboratory equipment and scientific equipment are used synonymously. Research Equipment is generally considered to be: Equipment that is or could be used for scientific or scholarly investigation. This includes, but is not limited to, federal property that is useful in either an applied or theoretical fashion for the demonstration, performance, or instruction of science, mathematics, engineering, or technology principles or practice at all levels.
- F. Authorized Recipient – Within this guidance, Educational Institution and Non-Profit Organization shall be used synonymously and referred to as the Authorized Recipient. Authorized Recipients may vary depending on the authorizing language being applied.
- G. Excess Property – DoD Component-owned personal property and equipment that is not required for its needs and the discharge of its responsibilities as determined by the head of that component or other authorized official(s) within that component.
- H. Surplus Property – Is synonymous with Excess Property as used within this guidance.
- I. Science - As used in this guidance includes fields of science, mathematics, engineering and technology

V. Comments and Recommendations

Comments and recommendations for guidance changes should be sent to:

OSD/Director Defense Research and Engineering/DUSD(S&T)

Attn: Guidance for 10 USC 2194 & 15 USC 3710

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